

ADVISORY OPINION 93-022

Any advisory opinion rendered by the registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is required. KRS 121. 135(4).

November 10, 1993

Hon. Marva M. Gay
Kentucky Hospital Association
1302 Clear Springs Trace
P.O. Box 24163
Louisville, Kentucky 40224-4163

Dear Ms. Gay:

Thank you for contacting the Registry and for supplementing your initial question with additional information in writing. Based on the facts you have supplied, the facts to your question may be stated as follows:

You represent Kentucky Hospital Association Trustees who serve on boards of the hospitals or on the board of the Kentucky Hospital Association receive reimbursement checks for expenses incurred when they attend meetings of the boards or of the Kentucky Hospital Association.

Also, you yourself have received honorariums from various associations for speaking at their meetings. The trustees mentioned above also receive the same sort of honorariums.

Based on the facts you have provided, your questions can be stated as follows:

1. May Ms. Gay, vice President of Legal Services for the Kentucky Hospital Association, indorse honorarium checks, directly to the Kentucky Hospital Association permanent committee ("PAC")?
2. May members of the Kentucky Hospital Association, an incorporated entity, indorse their expense checks directly to the Kentucky Hospital Association's PAC as a contribution, or would such indorsed checks constitute unlawful corporate contributions under KRS Chapter 121?

Thank you for raising these important questions. First, please note that under KRS 121.120, the Registry may randomly audit permanent committees, or political campaigns, and the Registry is statutorily charged with auditing the campaigns of all those who run for state-wide office in Kentucky. Id. Any time a Registry auditor encounters a check copy that appears to be a corporate contribution, it raises questions in the Registry auditor's mind and, thus, tends to heighten the scrutiny and attention the auditor pays to the rest of the audit in question. Most candidates or permanent committees who receive contributions would prefer to avoid additional scrutiny in the Registry's audit process which is always thorough.

If you or a KHA member indorses a check in blank to the KHA's political action committee, the instrument becomes cash, and is subject to the \$100 maximum cash contribution rule set forth in KRS 121.150(4). Also, after the 1993 general election, the cash contribution limit will be lowered to \$50.

The same analysis as above applies to the honorarium question. After taking into account the above limitations and concerns, if you or a KHA association member chooses to contribute in the fashion above, it is permissible within the confines of KRS 121.150. However, the Registry would always recommend that you make a contribution from a personal checking account.

Your facts state that members of "various [hospital] boards" would like to make contributions in the same manner you have set out for yourself and KHA Members. You have not provided enough specific facts for the Registry to answer any questions involving "members of various boards of...hospitals." KRS 121.135(1) requires any requestor filing an advisory opinion request to ask for a Registry opinion "...relating to the specific transaction or activity..." being used as a source of the request. Id. (Emphasis added).

Second, the second and third questions in your advisory opinion request ask for an opinion on an area outside the jurisdiction of the Kentucky Registry of Election Finance. It appears that these questions involve the area of the law under the jurisdiction of the Kentucky Ethics Commission. Therefore, the Registry would suggest that you submit these questions to the Kentucky Ethics Commission.

This opinion is based upon the course of action outlined in your letter. If you should have any more questions, please give us a call. Thank you.

Sincerely,

Timothy E. Shull
General Counsel

TES/dt